

c. 8.100/ 3

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH
AT BILASPUR

W.P.NO. 1890 / 2005

Petitioner : Shiv Prakash Tiwari
S/o Shri J.P.Tiwari,
Aged about 49 years,
Asst.Professor Govt.Danteshwari
Girls College Jagdalpur,
Dist : Bastar - (C.G.)

Versus

- Respondents : / 1. State of Chhattisgarh
Through The Secretary
Higher Education Technical,
Human Resource Science &
Technology Department, Raipur,
Dist : Raipur - (C.G.)
2. The Commissioner,
Higher Education
State of Chhattisgarh Raipur,
Dist : Raipur-(C.G.)
3. The Principal
Government Danteshwari
Girls College Jagdalpur,
4. The Principal
Government Lohari College
Chirimiri, Dist : Korea-(C.G.)

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25.11.05
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WRIT PETITION U/A 226 / 227 OF THE CONSTITUTION OF INDIA

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

W.P. No. 1890/05

मामला क्रमांक

सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>9.11.2005</u> Petitioner by Shri Prafull Bharat, Advocate. Respondents by Shri Pankaj Shrivstava, Panel lawyer. The petitioner was working as Assistant Professor in the subject of Ancient Indian History Cultural and Archaeology at Govt. Danteshwari Girls College, Jagdalpur. He had been working for the last 24 years in the tribal area of Jagdalpur. On 28.2.2004 the Respondent No.1 transferred the services of the petitioner to the Govt. College Kunkuri, District- Jashpur Nagar. Since there was no post of Assistant Professor in the subject Ancient Indian History Cultural and Archaeology, the petitioner filed Writ Petition No. 758/2004, wherein this Court disposed of the petition vide order dated 6.4.2004, granting liberty to the petitioner to make a representation to the competent authority. The petitioner, accordingly, made a representation to the Respondent No.1 stating that the petitioner had served in tribal area for more than 24 years as such he should be considered for posting in a non-tribal area. It was further stated that the post of Assistant Professor in the concerned subject was vacant at Raipur. The petitioner represented for his transfer to Raipur. The Respondent No.1 after considering the representation of the petitioner modified the order dated 28.2.2004 by issuing the order dated 30.3.2005 (Annexure P/4) and transferred the petitioner from Kunkuri to Govt.	

1830/05

मामला क्रमांक

सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Lahidi College, Chirmiri, District- Korla. Learned counsel for the petitioner submits that Korla district is also a tribal area. Learned counsel for the petitioner has pointed out the transfer policy of the State Govt. wherein Clause-³ clearly provides that the officers/employees who had worked for more than 5 years in a tribal area be considered for posting in a non-tribal area in case he expresses his desire for posting in a non-tribal area. I am informed that at present there is vacancy of Assistant Professor in the subject Ancient Indian History Cultural and Archaeology at Govt. College, Shankar Nagar, Raipur. Shri Shrivastava, learned Panel lawyer submits that when the original transfer order dated 28.2.2004 was modified, there was no vacancy at Raipur and the order dated 30.3.2005 was passed on administrative ground. Learned Panel lawyer is not in a position to inform as to what was the administrative ground when the post was vacant in non-tribal area and the petitioner had worked for about 24 years in tribal area. Having heard learned counsel for the parties and having regard to the facts and circumstances brought on record, I am of the considered opinion that according to the policy of the Govt. the petitioner should be considered for posting in a non-tribal area when he had worked for more than 24 years in	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

WP. 1890/05

मामला क्रमांक

सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	tribal area. In the present case the petitioner had filed a representation in compliance of the order dated 6.4.2004 passed in W.P.No. 758/2004, stating all the facts, and it appears that rejecting the said representation the Respondent No.1 modified the earlier order on the ground that there was no post in the concerned subject at Kunkuri. It appears that there was no administrative exigency necessitating transfer of the petitioner to a tribal area without taking into consideration that a post was vacant in non-tribal area i.e. at Govt. College, Shankar Nagar, Raipur. In view of the above, the Respondent No.1 is directed to consider and decide the case of the petitioner within a period of three weeks from the date of receipt of this order and to transfer the petitioner in Govt. College, Shankar Nagar, Raipur if there is vacancy in the concerned subject, or to transfer the petitioner to any other place in a non-tribal area. In view of the foregoing, the petition stands disposed of. There shall be no order as to costs. Certified copy, as per Rules.	
		Sd/- Satish K. Agnihotri Judge

Thakur

14.11.05
13.1.08